

### REMARKS

It is respectfully submitted that the rejection under 35 U.S.C. 112 can be withdrawn with the foregoing cancellation of claim 118. It is respectfully submitted that the rejection is not applicable to claim 128 in that the language quoted in the Office Action omitted one word: "tablets...taken...by a female human being contain...." (emphasis added). Claim 128 is clear and definite.

The obvious-type double patenting rejection over claims 1-20 of Hodgen US 5,468,736 is respectfully traversed.

As recognized in the Office Action, the '736 patent claims are explicitly limited to the use of estrogen in the absence of progestin while all claims in this case require the combination of estrogen and progestin in HRT. It is not permissible to base a double patent rejection on any part of the "reference" other than its claims but this rejection is predicated on do just that. More importantly, it is not permissible to ignore an explicit requirement of the "reference", namely that there is an absence of progestin. While it is theoretically proper to rely on other art to substitute one entity for another or add some other material, the explicit requirement in the claims of the "reference" must be observed.

Withdrawal of the obvious-type double patenting rejection is respectfully  
requested.

In view of the above amendment, applicant believes the pending application is  
in condition for allowance.

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Respectfully submitted,

By /Edward A. Meilman/  
Edward A. Meilman  
Registration No.: 24,735  
DICKSTEIN SHAPIRO LLP  
1177 Avenue of the Americas  
New York, New York 10036-2714  
(212) 277-6500  
Attorney for Applicant